BEFORE THE:

RESEARCH & SPECIAL PROGRAMS ADMINISTRATION
(U.S. Department of Transportation)

AND THE

TRANSPORTATION SECURITY ADMINISTRATION
(U.S. Department of Homeland Security)

IN THE MATTER OF:

RIN 2137-AE02: Hazardous Materials: Enhancing Rail Transportation Security for Toxic Inhalation Hazard Materials

Comments of:

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Before the Administrator(s):

National Tank Truck Carriers (NTTC) is a trade association composed of approximately 180 trucking companies, which specialize in the cargo tank transportation of hazardous materials, hazardous substances and hazardous wastes, nationwide. A substantial number of our members are involved in the transportation and distribution of commodities classified as "Toxic Inhalation Hazard" (TIH) or "Poison Inhalation Hazard" (PIH); thus, our interest in this docket is substantial.

At the outset NTTC notes that, while the docket focuses transportation practices in the rail mode, both TSA and RSPA (hereinafter referred to as TSA/RSPA) seek input and commentary from the highway, pipeline and maritime modes. We respond accordingly (please note that NTTC's comments relate only to transportation in cargo tank motor vehicles).

OUR PRIMARY CONCERN -- Undoubtedly, the various surface modes share any number of operational and functional characteristics in the transportation of high hazard hazardous materials. For example, the DOT's Hazardous Material Regulations (HMR) impose strict and necessary requirements ranging from container specifications to paperwork, handling and reporting (for all modes). In general, shippers of these products will move the same products (or family of products) in more than one mode (depending on location of the customer, volume(s) acceptable to the customer, availability of service, time-in-transit and a host of economic factors).

Given these realities, we urge TSA/RSPA to heed the following: "One size does not fit all" in crafting regulations relevant to security in the transportation of high hazard commodities. In other words, the agencies should not assume that "what works' for rail will also "work" in the trucking industry.

SOME EXAMPLES -- In the rail mode, the prime bulk container (i.e. a tank car) is almost always owned (or leased) by the shipper. More than likely, the tank car is in "dedicated service"(i.e. the car is used to transport only one product or a very narrow family of products). It will be the shipper who will decide when that car is to be used, the points of loading and unloading, general routing and what security considerations (above and beyond those mandated by regulations) are appropriate. Prior to tendering the car to the rail carrier, that car is in total control of the shipper and its employees and subject to the shipper's security controls.

Conversely, in the trucking industry, the carrier will own the cargo tank motor vehicle, and it will be the carrier's employees who will: Prepare the vehicle for transportation; generate much of the relevant paperwork; and schedule the vehicle for dispatch, loading, routing and unloading, etc. With regard to security, the carrier will have a security program separate and apart from that of the shipper in both form and substance. In all probability, the carrier will have trained selected employees in many essential elements of the shipper's security program (in order to gain access to a plant site and perform loading/unloading operations).

While in rail transit, the tank car follows a static route (with few alternatives) on private properties and is unattended. In trucking, there is (generally) a variety of routing options and the vehicle is either always attended (single drivers, "sleeper" teams, relay drivers) or "in transit" stops can be arranged at relatively secure "off highway" facilities such as terminals or truckstops.

Again, we "compare and contrast" (above) only to underscore the point that "one size does not fit all" and that TSA/RSPA must craft individual elements of an enhanced security program to accommodate the operational characteristics of each mode.

ADDITIONAL QUESTIONS RAISED IN THE DOCKET -- A substantial portion of the notice and request for comments seeks input on a number of specifics, such as: placards, markings, communications technologies, vessel enhancement, etc.

In this context, NTTC is aware of (and some of our carrier members have participated in) a so-called "Field Operations Test (FOT)" conducted for DOT by the Battelle Institute and SAIC. As a part of that project, a variety of devices and systems (all related to security in hazardous materials transportation) were installed on commercial motor vehicles (in both bulk and non-bulk operations) then tested in "real world" conditions. Some questions, posed in the instant docket, center on technologies tested in the FOT.

We are aware that the evaluation phase of that program is underway (but, at this writing, not completed). Draft reports are being circulated to selected individuals (both within and without government). However, those drafts do contain "security sensitive information (SSI)".

Since we assume that any recommendations flowing from the FOT will (eventually) find their way into regulatory proposals, NTTC believes that any comments -- specific to a technology tested in the FOT -- would be (at best) premature; and (at worst) inappropriate until the SSI designation is removed.

Respectfully submitted
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President